

**Driving-Under-the-Influence Programs Virtual Services**  
*Frequently Asked Questions*  
*Revised September 2023*

The following answers to frequently asked questions intend to provide licensed Driving-Under-the-Influence (DUI) programs with additional guidance and clarification regarding virtual services. This document will be updated as necessary.

Applicable Title 9 regulations pertaining to the FAQs can be accessed at the following site:

<https://www.dhcs.ca.gov/individuals/Documents/DUI-Virtual-Services-FAQs.pdf>

**1. Can DUI programs close their brick-and-mortar location and move to a 100% virtual services operation?**

No. DHCS cannot license a DUI program that does not have an address/location used for the provision of program services. In accordance with Title 9 of the California Code of Regulations [§9802](#), DHCS may only license facilities with a location in which DUI program services are provided. In applying for a license, [§9804\(b\)\(3\)](#) requires that all applications include the physical address of the DUI program location. Pursuant to [§9801.6](#), all licensed DUI service providers must comply with the requirements of Title 9.

**2. With the allowance of virtual services, can DUI programs alter Title 9-prescribed educational and group counseling session time length requirements?**

No. DUI programs must adhere to Title 9 requirements for all group and education time length requirements. Pursuant to [§9852\(a\)](#), educational sessions shall be no less than one hour and no more than two hours in length. Pursuant to [§9854\(a\)](#), group counseling sessions shall be no less than one hour and no more than two hours in length.

### **3. With the allowance of virtual services, can DUI programs increase the number of participants in educational and group counseling sessions as prescribed by Title 9?**

No. DUI programs must adhere to Title 9 requirements for all educational and group counseling sessions. Pursuant to [§9852\(f\)](#), DUI programs shall limit attendance at educational sessions to a maximum of 35 program participants. In addition, pursuant to [§9854\(g\)](#), group counseling sessions shall be limited to 15 participants. However, on an emergency basis, [§9854\(g\)\(1\)](#) allows for up to 17 participants be included in group counseling sessions. Pursuant to [§9854\(g\)\(3\)](#), whenever a participant is added to a group counseling session on an emergency basis, the DUI program shall document the nature of the emergency in the participant's case record and on the attendance roster. As defined in [§9854\(g\)\(2\)](#), "emergency" means a sudden, unexpected occurrence or set of circumstances which could not have been avoided, prevented, or planned for by either the DUI program or the participant.

### **4. How does DHCS expect programs to document participant attendance in virtual education and group counseling sessions?**

DUI programs should have written procedures for documenting and verifying participant attendance during virtual services. At a minimum, DUI programs are required to comply with all regulatory requirements pursuant to [§9852\(i\)](#) and [§9854\(i\)](#), which requires all program participants to sign a roster during each educational and group counseling session in order to verify attendance. DUI programs utilizing e-signatures or digital signatures are required to ensure mechanisms are put in place to ensure the authenticity of the signatures.

DHCS recommends printing out the attendance rosters and maintaining the rosters in an education or group counseling session binder, so participant attendance can be verified by DHCS.

Programs should be cognizant that the use of binders alone is not sufficient to satisfy recordkeeping requirements. Pursuant to [§9866\(b\)](#) and [§9866\(c\)](#), DUI programs must establish and maintain a participant case folder that includes completed copies of all required forms and records for each participant.

### **5. What is required to give participants full credit while attending a virtual services session?**

Pursuant to [§9851](#) and [§9867](#), DUI programs are required to ensure that participants complete all required sessions in the amount of hours required. In order to comply with this requirement in a virtual setting, DHCS recommends that DUI programs include, at a minimum, the following protocol in the participant contract:

- Log in to the scheduled session on time. There is no “grace period” for tardiness.
- Stay engaged for the full length of the session. Do not participate in activities that may be considered a distraction (i.e. driving, taking a walk, cooking, exercising, smoking, or eating).
- Be alone in a quiet room to ensure the privacy and confidentiality of all participants.
- Attend all sessions while sitting upright.
- Turn cameras on for the entire duration of the scheduled session.
- Maintain the confidentiality of other participants.

Failure to comply with these rules will result in receiving no credit for the session.

## **6. Does a participant need to be enrolled in person?**

DHCS encourages in-person enrollment when possible and following COVID-19 and company directives. In-person enrollment allows for the verification of the identity of the individual as well as complete understanding of the regulations that govern their attendance. If in-person enrollment is not possible, the DUI Program should ensure that all enrollment criteria and regulations are met in accordance with Title 9 ([§9848](#)). When virtual screening is conducted, written procedures for virtual services should be provided for guidance and agreed to by the participant. As a best practice, virtual enrollments should utilize a video-based platform.

## **7. Does DHCS have any guidelines on what to include in a Virtual Services contract?**

DHCS recommends that DUI program rules pertaining to virtual services be included in the participant contract in order to ensure that participants are attending all required sessions. The written protocol should address the expectations and requirements of virtual services, including, but not limited to:

- Confidentiality, including confidentiality of other participants in virtual sessions.
- Policy on tardiness and consequence of tardiness.
- Absence and rescheduling policy and associated fees.
- Alcohol/drug use before or during sessions and consequences for insobriety.
- Reasons why virtual services can be revoked.

DHCS also recommends that DUI providers obtain consent from all participants and take the necessary privacy and security precautions, in compliance with HIPAA and 42 CFR Part 2, prior to providing any virtual services.

## **8. What options does the program have if a participant does not have the electronic means to participate in virtual services?**

The DUI program must have the option for the participant to attend classes at the physical location of the program. DHCS recommends DUI programs screen participants at enrollment to determine whether virtual services are appropriate. Screening criteria could include:

- Access to internet enabled devices (computer, phone or tablet with video and audio capability).
- Ability to operate internet enabled devices.
- Access to reliable internet.

## **9. Can DUI participants attend DUI programs in counties where the DUI violation didn't occur?**

No. Pursuant to Health & Safety Code [11837.2](#), a person is eligible to participate in a DUI program if the program is operating in any of the following:

- (A) The county where the person is convicted.
- (B) The county where the person resides.
- (C) A county that has an agreement with the person's county of residence pursuant to Health and Safety Code (HSC), Section [11838](#).

A participant may request transfer to another licensed program (1) in the same county in which the person has commenced participation in the program, upon approval of that county's alcohol and drug program administrator, or (2) in a county other than the county in which the person has commenced participation in the program, upon approval of the alcohol and drug program administrator of the county in which the person is participating and the county to which the person is requesting transfer.

DHCS will cite DUI programs for noncompliance if they allow participants to attend programs without meeting the requirements set forth in Health & Safety Code section [11837.2](#).

## **10. How should Additional County Requirements (ACRs) be documented in a participant's file when these services are provided in a virtual setting?**

For participants attending services via a virtual platform, DHCS recommends participants request from ACR providers either a print out of the virtual meeting log providing information when the participant logged in and off, or a document that includes the date and time of participation with the ACR provider representative's signature.

Not all of the ACR options listed in regulation can be accommodated in a virtual setting. Participants should work with their provider and County Administrator in selecting ACRs that align with the available resources in their area.